

**PT 99-55**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>CARLOCK MENNONITE CHURCH</b>	)	<b>A.H. Docket #</b>	<b>98-PT-0062</b>
<b>Applicant</b>	)		
	)	<b>Docket #</b>	<b>97-57-109</b>
<b>v.</b>	)		
	)	<b>Parcel Index #</b>	<b>06-32-328-001</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

Synopsis:

The hearing in this matter was held on January 6, 1999, at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, to determine whether or not McLean County Parcel Index No. 06-32-328-001 and the house located thereon qualified for exemption from real estate taxation for the 1997 assessment year.

Mr. Steven R. Schwoerer, chairman of the board of the Carlock Mennonite Church (hereinafter referred to as the "Applicant"), Rev. Ralph W. Foote, pastor of the applicant, and Mr. Gerald Orndorff, treasurer of the applicant were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant is a religious organization; secondly whether the applicant owned this parcel during the 1997 assessment year; and lastly,

whether the applicant used this parcel and the residence thereon as a parsonage during the 1997 assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization which owned this parcel and the residence thereon during the 1997 assessment year. It is further determined that the applicant used this parcel and the residence thereon as a parsonage during a portion of the 1997 assessment year.

It is therefore recommended that McLean County Parcel Index No. 06-32-328-001 be exempt from real estate taxation for the period August 15, 1997, through December 31, 1997, or for 38% of the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1997 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On July 10, 1998, the McLean County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcel here in issue for the 1997 assessment year. (Dept Ex. No. 2)

3. On August 20, 1998, the Department advised the applicant that it was denying the exemption of this parcel because said parcel was not in exempt use. (Dept. Ex. No. 3)

4. On September 3, 1998, Mr. Steven R. Schwoerer, chairman of the board of the applicant requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter conducted on January 6, 1999, was held pursuant to that request. (Dept. Ex. No. 5)

6. At the hearing, Mr. Schwoerer recalled that at the pretrial conference I had advised him that it would be helpful if the applicant were represented by legal counsel at the hearing. Mr. Schwoerer then stated that the applicant wished to proceed without counsel. (Tr. p. 6)

7. The applicant acquired the parcel here in issue by a warranty deed dated March 26, 1943. During 1997 this parcel was improved with a one story residence with a basement and a two car attached garage. (Dept. Ex. No. 2A & Appl. Ex. No. 4)

8. The parcel here in issue and the residence thereon is located directly across Jefferson Street from the applicant's church building. (Tr. pp. 7 & 8)

9. The applicant was incorporated by affidavit on January 17, 1960, pursuant to the Religious Corporation Act. (Appl. Ex. No. 2)

10. During 1997, the applicant held religious services at the church on Sunday mornings at 10:15 A.M. The average attendance at those services was approximately 65 persons. (Tr. p. 7)

11. In 1992 the pastor of the applicant at that time, Rev. George O'Reilly requested that he and his family be allowed to move out of the parsonage here in issue and live elsewhere. Rev. O'Reilly sought the approval of the church board to do this since the pastor of applicant had always lived in the parsonage. After a spirited discussion, the church board determined to support Rev. O'Reilly in this matter. The church board determined that it would be prudent to call a church meeting to discuss this proposal. After a lively discussion it was agreed by the church that Rev. O'Reilly and his family could live elsewhere. (Tr. pp. 15 & 16)

12. The applicant then put this parcel, improved with its former parsonage back on the tax rolls and began to look for someone to rent the house. The first tenants were John and Ann Hopkins. They paid monthly rent of \$550. \$300 per month of that rent was given to Rev. O'Reilly as a housing allowance and \$250 per month was set aside as a reserve to pay real estate taxes. At a later time the tenants were Jonathan and Pam Scott. The Scotts paid \$600 per month rent. Again, \$300 went to Rev. O'Reilly as a housing allowance and \$300 was set aside as a reserve to pay taxes. (Tr. pp. 18 & 19)

13. After Rev. O'Reilly ceased being the applicant's pastor, Rev. Foote was called to be the applicant's pastor. (Tr. p. 19)

14. Rev. Foote is licensed by the Mennonite Conference as a Christian Minister at the Carlock Mennonite Church. Rev. Foote was ordained by the Pontiac Bible Church. (Tr. p. 12)

15. Rev. Foote stated that he believed that if a church had a parsonage which was offered to a pastor, that it was in the best interest of both the pastor and the church that the pastor live in the parsonage. (Tr. p. 19)

16. Rev. Foote was called by the applicant as its minister and began moving into the parsonage on this parcel on August 15, 1997. (Tr. p. 8)

17. During December of 1997, Rev. Foote hosted a meeting in the parsonage for a missionary couple from Brazil. Refreshments were served and the missionaries gave those present an update on the missionary work in Brazil. This meeting took place in the living room, dining room, and kitchen of the residence on this parcel. (Tr. p. 9)

18. Rev. Foote uses one room in the basement of the house on this parcel as his office or study. Most of Rev. Foote's books are in the office in the basement of this house. Rev. Foote does his sermon preparation in the office in the basement of this house in the afternoons and often into the evenings. The church phone number rings both at the church and in the pastor's office or study in the basement of this house. (Tr. pp. 10 & 11)

19. The pastor also has an office in the church where he had scheduled office hours from 9:00 A.M. to Noon, Tuesday through Saturday. (Tr. p. 10)

20. Rev. Foote stated that he does not pay rent to the applicant to live in this house and that he does not have any ownership interest in the house on this parcel. (Tr. p. 11)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts

and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Concerning property used for religious purposes, 35 **ILCS** 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of McKenzie v. Johnson, 98 Ill.2d 87 (1988), the Illinois Supreme Court first set forth that the so-called parsonage exemption was constitutional. The Court then went on to state that a parsonage qualifies for an exemption if it reasonably and substantially facilitates the aims of religious worship or instruction or is used for such purposes. In view of the facts that this residence is directly across the street from the church, that the pastor has a study in the residence where he prepares his sermons, and that he holds some church activities there, I conclude that this residence reasonably and substantially facilitates the aims of religious worship or instruction and is used for such purposes. I also conclude that the use of this parcel as a parsonage began again when Rev. Foote began moving into the house on this parcel on August 15, 1997.

I conclude that the applicant is a religious organization and that the applicant owned this parcel during all of the 1997 assessment year.

I therefore recommend that McLean County Parcel Index No. 06-32-328-001 be exempt from real estate taxation for the period August 15, 1997, through December 31, 1997, or for 38% of the 1997 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
April 29, 1999